

August 15, 2005

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Dept. of Community Development  
City of Sunnyvale  
456 West Olive Ave.  
Sunnyvale, CA 94088-3707

Subject: SPHDS - 1030 Astoria Drive Use Permit- Concerns about the appeal

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Dear Ms. McLeod,

The ruling by the Planning Commission last month was a very thoughtful and wise decision. The decision of limiting the number of attendees to 200 after school hours, struck a balance between the needs of the school and the neighborhood. We now understand that the school has filed an appeal against this ruling. We are against this appeal and wish to state our concerns as the neighbors near the school.

In a way, we are not surprised by this appeal. We have maintained all along that the school intends to use the expansion as a gathering place for social and religious activities, not just for the school patrons, but for a separate congregation and as a regional community center. At the Planning Commission hearing last month, school representatives, one after another, declared that they had no intention of expanding the usage of the school site, and that the Synagogue structure was merely to provide a separate environment for prayer and sanctuary for the students and their parents.

Did the applicant misrepresent their intentions at the last hearing? They provided the numbers in the staff report that were used as the basis for the cap by the planning commission. Perhaps they assumed that they would not really be held to a limit?

The neighborhood did not appeal the decision because we felt it was an acceptable compromise. While it allows greatly expanded use from when the site functioned primarily as a pre-K to 8<sup>th</sup> grade school, it protects the neighborhood from future expansion and intensification of use.

The ambiguity of uses at the site has been an ongoing source of concern for the neighborhood for the last decade. While the uses on the site and proposed expansions are continually described as supporting the primary use of the site as a school, the patterns and varieties of use indicate otherwise. The only way that this ambiguity can be addressed is through clear, enforceable limits on the expansion and intensification of use at the site.

We ask city staff and the city council to ensure that these limits remain in place so that the allowed use of the site is clear and that parking, traffic, and noise do not worsen. Traffic on Astoria is already near the threshold for a residential street. The school site has a very limited

number of parking spaces, far fewer than would required for larger gatherings. Any relaxation of this limit or lifting the limit all together will endanger the character of the neighborhood.

We sincerely hope that staff recommends denial of the appeal by the school. Since you had set Aug 15 deadline, we wanted to send you this letter. We shall follow up with more information in another letter this week.

We have attached a summary of our issues. If you need further information, please let us know.

Thanks and regards.

Representing the neighborhood

ML and Shirley Chan

Ashok and Pushpa Saraf

Boseo and Helen Wong

Louis and Queene Mavor

Gary and Kacy Walden

Chris and Doug McCutcheon

Clark and Cordelia English

Scott and Doris Yeaman

Gerard and Irene Francisconi

Janet Feemster

Jay Lee

John Shin and Christine Choi

Kiyoe Conger

Larry & Katsue Conger

Leo and Carrie Zee

Makarand and Swati Gokhale

Michael Shimamoto

Patsy and Alan Au

Peter and Eunsil Lee

Philip and Elisa Madera

Rick and Terri Gross

Russell and Diane Struve

Stephen and Wendy Fong

Suneel & Seema Gupta

Susan Li

Vadim and Lucy Kotov

Warren and Ron Volk

From the neighborhood

Concerns	Neighborhood Perspective
<p>The use of the site as a place of assembly for a religious institution began after 1986 and should not be considered a pre-existing legal nonconforming use of the site.</p>	<p>Regular and ongoing use of the site for a place of assembly by a religious institution began after 1986 when a use permit would have been required.</p> <ul style="list-style-type: none"> <li>• The beginnings of the Bar Yohai Sephardic Minyon are detailed in a newspaper article published in the San Jose Mercury, Silicon Valley Life section, April 11, 1998. In the article titled, "<i>A Place of Their Own</i>," the congregation is described as starting in someone's home in 1988 and moving to the site after that.</li> <li>• Additional articles discussed during the planning commission meeting place the founding of the synagogue in about the 1989 time frame.</li> <li>• As stated by the applicant during the public hearing for the planning commission meeting, the synagogue is a separate legal entity. They have separate finances, and insurance and appear to have different governing boards.</li> </ul>
<p>The use of the site as a place of assembly for regular and ongoing use as a community center of sort is being treated as pre-existing, legal nonconforming use of the site.</p>	<p>A comparison of uses stated in the 1996 use permit application and hearings with the 2004 application shows that many of the uses being afforded the status of pre-existing ongoing uses of the site since 1981 did not exist in 1996.</p> <ul style="list-style-type: none"> <li>• The 1996 staff report states "staff understands from the applicant that the proposed chapel will be used primarily during school hours ..." pg 4. Uses that are currently stated that would likely occur in the synagogue are now frequently outside of school hours.</li> <li>• These additional activities that occur on the school site today are not listed in the 1996 project statement. <ul style="list-style-type: none"> <li>○ early morning, evening and weekend religious services.</li> <li>○ Gan Aviv Summer Camp that is operated independently of SPHDS and possibly in addition to their summer pre-school program.</li> <li>○ Evening adult religious activities.</li> <li>○ High School age youth groups.</li> <li>○ Typical hours of operation listed in the 1996 application are 7:30 am to 6:00 pm.</li> </ul> </li> <li>• Quoting from page 10 of 21 of the transcript from the public hearing for the 1996 application: <i>Mr</i></li> </ul>

## SPHDS Usage Permit

From the neighborhood

	<p><i>Shapira stated that there are very few evening events, an occasional science fair or parent teacher conference. In the current application, evening use occurs almost daily.</i></p> <ul style="list-style-type: none"> <li>• Quoting from page 11 of 21 of the transcript from the public hearing for the 1996 application: <i>Comm Walker wanted to know if the new chapel would be perceived as a new synagogue and encourage other than the students to attend. Mr Zaghi stated that the chapel is orthodox and that services would be in Hebrew. In fact they have trouble getting the minimum of 10 people on some days. Current attendance at the synagogue is now somewhere between 150 and 230.</i></li> <li>• Many of the uses that have evolved in the last 10 years are not affiliated with the school. <ul style="list-style-type: none"> <li>○ Camp Gan Israel is a separate entity and not affiliated with the school</li> <li>○ Adult Education classes are offered by Jewish Scholar Network, a separate entity not affiliated with the school.</li> <li>○ High School Youth Groups use the site but are not affiliated with the school.</li> <li>○ Use of the site in May 2005 by Wizo Nativ, a women's organization, for a fundraiser for a non-affiliated day care center.</li> </ul> </li> </ul>
<p>The use of the site as a place of assembly and community center is being treated as an accessory use to the school rather than an additional use on the site.</p>	<ul style="list-style-type: none"> <li>• City staff clearly states: <i>"The proposed additions and new construction are to be an accessory use to the private school. The synagogue will serve the students and families of the school and has not been proposed as a facility for non-school affiliated individuals or groups.....the additions are to support the existing primary use of the site as a private school."</i> (p10/11).</li> <li>• An <b>accessory</b> use is subordinate or supplementary to the site. The history and separate legal status of the school and the synagogue; <i>the separate congregation that uses the site</i> (staff report pg 4); and the frequency and regularity of these uses are not consistent with a subordinate use on the site. The synagogue buildings primary use will be by the separate congregation.</li> <li>• The frequent and regular use by non-affiliated community organizations since the 1996 application are also not consistent with a place of assembly that</li> </ul>

## SPHDS Usage Permit

From the neighborhood

	<p>is an accessory uses to the school for land use planning purposes.</p>
<p>Parking requirements should be calculated in accordance with appropriate city ordinances based upon the building plans. Any mitigation used to reduce these requirements should be explicitly stated so that the reductions in use can transfer to another owner or use.</p>	<ul style="list-style-type: none"> <li>Based on statements by the applicant, parking requirements for the synagogue are being calculated based upon an assembly area of 1364 square feet. This is about 23% of the total square footage of the 5,717 sq ft building which is considerably smaller than the open seating area seems to be in the building plan. What purpose does the remaining 77% of the space serve?</li> <li>Estimating the open seating area at 3500 sq ft of the 5717 sq foot building the assembly area and conference room combined would require approximately 172 spaces. This is considerably more than the 73 being used in the staff report for assembly purposes or the 83 proposed spaces for the site.</li> <li>Occupancy rates calculations provide another perspective on this. Using a common building standard of 7 square feet per occupant for a concentrated use, there estimated assembly area of 1364 square feet would support 195 people, yet their appeal states that they have 230 people using the room.</li> <li>Parking requirements are not being calculated for the multipurpose room which could also be used as a place of assembly. Many activities and events are held in the multipurpose room. With both the multipurpose room and the synagogue available for special events and lectures it is quite possible for large events to be held in both rooms without explicit consideration and restrictions.</li> <li>The stated uses of the synagogue and multipurpose room both include assembly uses other than religious services that need to be considered in the planning decisions.</li> <li>The driveways are two directional in the proposed plan. Having left hand turns occur at both drives might increase the traffic congestion on Astoria Drive. This is a different traffic flow than currently exists.</li> </ul>
<p>Potential for Intensification in use based upon size and amount of expansion.</p>	<ul style="list-style-type: none"> <li>The amount of square footage alone is a risk for intensification of use. As we stated during the planning commission meeting, this is a substantial increase in size for a school whose enrollment has decreased.</li> </ul>

## From the neighborhood

	<ul style="list-style-type: none"><li>○ Occupancy for an estimated assembly area of 3500 sq feet in the synagogue supports 500 people. Occupancy of the building is potentially much higher. This is considerably higher than their stated uses.</li><li>○ The administration building is stated to be used for school use only, yet it provides many rooms that can be used for assembly, meeting and teaching areas for broader purposes.</li><li>● During the 1996 appeal, the neighborhood raised specific concerns regarding expansion of uses to the site. (pg 3 of 6, Report to City Council) Comparing the 1996 uses to the 2005 uses shows that many of our concerns have been realized, and that use has changed substantially over the last 10 years, even without the additional space requested in the use permit.</li></ul>
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Traffic Study	<ul style="list-style-type: none"> <li>• Why does the traffic study treat Astoria as two segments with separate counts, using the school site as the dividing point? Combined traffic on these two segments of Astoria are over 1800 trips a day, yet the staff report refers to 900 trips a day. (pg 15)</li> <li>• Parking standards used in the traffic study to estimate trips generated to the site are considerably lower than Sunnyvale parking standards.</li> <li>• The traffic study recommends a lower enrollment cap than listed in the staff report.</li> <li>• Current uses reflected in the appeal</li> </ul>
Mitigated Negative Declaration	<ul style="list-style-type: none"> <li>• The mitigated negative declaration did not consider the assembly uses on the school site. Additionally, stated uses on the site have increased and the project description on which it was based is inadequate. This negates the mitigated negative declaration under CEQA as it was performed before the stated increases in use of the site.</li> <li>• The mitigated negative declaration does not use city zoning ordinances related to parking requirements for places of assembly as the basis for the parking requirements in the declaration, even though there are clearly assembly uses on the site.</li> <li>• Trips on Astoria are calculated using two segments rather than a single street as the basis for traffic impacts.</li> <li>• The cumulative impacts of the proposed expansion in conjunction with past planning decisions for the park and nursing home, and the current dual uses at the site, and the potential for significant future intensification of the use of the site have not been considered or mitigated in the declaration.</li> </ul>